

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

HOWARD KERSTINE,

Plaintiff,

v.

NINE WEST GROUP INC. and

JONES APPAREL GROUP,

Defendants.

CIVIL ACTION NO. C-1-02-080

October 15, 2004

**MOTION IN LIMINE TO EXCLUDE THE TRIAL TESTIMONY OF THIRD PARTY
WITNESSES ROBERT D. STIX AND JAMES HURLEY AND VARIOUS TRIAL
EXHIBITS**

Defendants Nine West Group Inc. and Jones Apparel Group, Inc., hereby move for an order excluding from evidence at trial testimony of third party witnesses Robert D. Stix and James Hurley and various trial exhibits.

The testimony of Messrs. Stix and Hurley is inadmissible because it is irrelevant, unfairly prejudicial, and improper lay opinion regarding the ultimate issue in this matter. Mr. Kerstine's exhibits are inadmissible because they are inadmissible hearsay and demonstrative evidence that would confuse the jury.

WHEREFORE, for the foregoing reasons and those set forth in its supporting memorandum of law filed with this motion, Defendants respectfully request that Mr. Stix's testimony and Mr. Kerstine's exhibits 7, 10, 12, 15, 26, 32, 33, 34, 38, 42, 44, 50, 68, and 69 be held inadmissible.

**ORAL ARGUMENT IS REQUESTED
TESTIMONY IS NOT REQUIRED**

Defendants submit a memorandum of law in support of this motion.

DEFENDANTS,
NINE WEST GROUP INC. and
JONES APPAREL GROUP, INC.

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Their Attorneys

CERTIFICATION OF SERVICE

This is to certify that on October 15, 2004, a copy of the foregoing was served, along with the supporting Memorandum of Law and the declarations of Kyri Fujiwara and Christian A. Grenier, via regular mail, postage prepaid, to counsel of record: Paul H. Tobias, Tobias, Kraus & Torchia, 414 Walnut Street, Suite 911, Cincinnati, Ohio 45202.

Gary L. Greenberg